IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TIMOTHY M. CANARY,

Plaintiff,

vs.

THE HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY,

Defendant.

Civil Action No. 3:17-cv-49

COMPLAINT

AND NOW, comes the Plaintiff, TIMOTHY M. CANARY, by and through his attorney, Brian Patrick Bronson, Esquire, and the law firm of QuatriniRafferty, P.C., and files this Complaint in Civil Action in the Federal District Court for the Western District of Pennsylvania, stating as follows:

INTRODUCTION

NATURE OF THIS ACTION

1. This action is filed pursuant to the Employment Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq. (hereinafter referred to as "ERISA") and the Declaratory Judgment Act, 28 U.S.C. §§2201, 2202. Mr. Timothy M. Canary (hereinafter Plaintiff) is a participant in an employee welfare benefit plan (hereinafter referred to as "The Plan") which is administered pursuant to an insurance policy issued by The Hartford. The Plan is governed by ERISA. Plaintiff is a beneficiary under the Plan. This Complaint

challenges the Plan's unlawful practice of failing to provide Plaintiff with the timely payment of Long-Term Disability benefits under the Plan. Specifically, Plaintiff is filing this action to enforce his rights under the Plan and for attorney fees, interest and costs as provided by ERISA.

JURISDICTION AND VENUE

2. This Court has Original Jurisdiction to hear this complaint and to adjudicate the claims herein pursuant to 28 U.S.C. §1331 and 29 U.S.C. §1132.

3. Venue is proper in this Court, as the Plan was administered in the Western District of Pennsylvania.

PARTIES

4. The Plaintiff, Timothy M. Canary resides at 2055 Florida Avenue, Johnstown, Pennsylvania 15904.

5. The Defendant, The Hartford, is the Claims Administrator of Long Term Disability claims and is located at 200 Hopmeadow Street, Simsbury, Connecticut 06089.

6. Defendants administered employee benefits, mainly Long Term Disability benefits, under the Plan in accordance with the insurance policy issued to the Plan by the Claims Administrator.

STATEMENT OF FACTS

7. Mr. Canary was employed by Gamesa Technology, as a October 2005 between May 31, 2010, his last day of work.

8. Mr. Canary was unable to perform his regular occupation after May 31, 2010, due to symptoms and limitations resulting from his medical diagnosis of Crohn's Disease, Iron Deficiency Anemia, Hematochezia, Symptomatic Fever, Reflux Disease, Elevated Liver Enzymes and a History of Hip Surgery.

9. Mr. Canary initiated a claim for Long Term Disability benefits under the Plan and was paid Long Term Disability benefits from approximately November 2011 through May 2014. The Defendant notified Mr. Canary by letter dated May 6, 2014, that his ongoing claim for Long Term Disability benefits was being denied as they felt he did not have continued proof of his ongoing disability.

10. On August 20, 2014, the Plaintiff appealed the denial of his Long Term Disability claim.

11. By letter dated December 19, 2014, Mr. Canary was notified by the Defendant that they were affirming their decision to deny his ongoing claim for Long Term Disability benefits for the reason of not satisfying the definition of "Disability or Disabled".

12. On May 6, 2015, Plaintiff filed a timely and responsive appeal to the denial of his claim.

13. By letter dated August 28, 2015, the Defendant issued a letter upholding the denial of his claim. With this denial, the Plaintiff exhausted his administrative remedies under the Policy.

14. Mr. Canary is currently receiving Social Security Disability Insurance benefits and has been receiving these benefits in an uninterrupted fashion during all times relevant to this case.

CAUSE OF ACTION

Employment Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq.

15. Paragraphs 1 through 14 are incorporated herein as if set forth at length.

16. Plaintiff has exhausted all administrative remedies and mandatory appeals as required by the Plan and ERISA 29 U.S.C. §1001 et seq.

17. At all times relevant to this action, the Plaintiff has been unable to perform the material duties of any gainful occupation due to the diagnoses and symptoms related to Crohn's Disease, Iron Deficiency Anemia, Hematochezia, Symptomatic Fever, Reflux Disease, Elevated Liver Enzymes and a History of Hip Surgery.

18. The Defendant ignored pertinent medical evidence and failed to evaluate all of the evidence of record including the medical of Plaintiff's treating physicians.

19. The Defendant did not conduct a full and fair review of the claim as required by ERISA.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully prays that the Court issue an Order:

(1) Awarding, declaring or otherwise providing Plaintiff all relief to which Plaintiff is entitled under ERISA Section 502 Paragraph (a) 29 U.S.C. Section 1132(a);

(2) Awarding pre and post judgment interests;

(3) Awarding Plaintiff the costs of this action and reasonable attorneys fees;

(4) Awarding such other relief as may be just and reasonable.

/s/ Brian Patrick Bronson, Esquire
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